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SENATE BILL 28

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Pete Campos

AN ACT

**RELATING TO EDUCATIONAL RETIREMENT; PROVIDING THAT CERTAIN
RETIRED MEMBERS MAY BEGIN EMPLOYMENT AT CERTAIN INSTITUTIONS AT
ANY TIME WITHOUT SUSPENDING RETIREMENT BENEFITS; RECONCILING
MULTIPLE AMENDMENTS TO THE SAME SECTION OF THE NMSA 1978.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 22-11-25.1 NMSA 1978 (being Laws 2001,
Chapter 283, Section 2, as amended by Laws 2003, Chapter 80,
Section 1 and by Laws 2003, Chapter 145, Section 1) is amended
to read:**

**"22-11-25.1. RETURN TO EMPLOYMENT-- BENEFITS CONTINUED--
ADMINISTRATIVE UNIT CONTRIBUTIONS. --**

**A. Except as provided in Subsections B and E of
this section, beginning January 1, 2002 and continuing until
January 1, 2012, a retired member may begin employment at a**

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1 local administrative unit and shall not be required to suspend
2 retirement benefits if the member:

3 (1) has not been employed as an employee or
4 independent contractor by a local administrative unit for at
5 least twelve consecutive months from the date of retirement to
6 the commencement of employment or reemployment with a local
7 administrative unit. If the retired member returns to
8 employment without first completing twelve consecutive months
9 of retirement, the retired member shall [remove-himself] be
10 removed from retirement; or

11 (2) begins employment at any time for an
12 institution of higher education specified in Article 12,
13 Section 11 of the constitution of New Mexico; provided that:

14 (a) the retired member is permitted by
15 federal law to return to employment without a break of service;

16 (b) the retired member receives no
17 salary from the general fund appropriation to that institution
18 following the date of retirement. If the retired member
19 receives a salary from the general fund appropriation to that
20 institution following the date of retirement, the retired
21 member shall be removed from retirement;

22 (c) the institution of higher education
23 certifies to the board that the retired member is directly
24 responsible for grants or awards to the institution in a total
25 amount of one hundred thousand dollars (\$100,000) or more

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1 annually; and

2 (d) if the board determines that there
3 is an actuarially adverse impact caused by the operation of
4 this paragraph, the institution of higher education shall pay
5 into the fund the amount per retired member as determined by
6 the board to offset the actuarially adverse impact.

7 B. A retired member who was retired on or before
8 January 1, 2001, has not since suspended or been required to
9 suspend retirement benefits pursuant to the Educational
10 Retirement Act and is reemployed by a local administrative unit
11 may continue employment at the local administrative unit and
12 shall not be required to suspend retirement benefits.

13 C. A retired member who returns to employment
14 during retirement pursuant to Subsection A or B of this section
15 is entitled to continue to receive retirement benefits but is
16 not entitled to acquire service credit or to acquire or
17 purchase service credit in the future for the period of the
18 retired member's reemployment with a local administrative unit.

19 D. A retired member who returns to employment
20 pursuant to Subsections A or B of this section shall not make
21 contributions to the fund as specified in the Educational
22 Retirement Act; however, the local administrative unit's
23 contributions as specified in that act shall be paid to the
24 fund as if the retired member was a non-retired employee.

25 E. Beginning July 1, 2003 and continuing until

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underscoring material = new
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1 January 1, 2012, a retired member who retired on or before
2 January 1, 2001 and who has not been employed as an employee or
3 independent contractor by a local administrative unit for at
4 least ninety days may begin employment at a local
5 administrative unit without suspending retirement benefits if
6 the retired member was not employed by a local administrative
7 unit for an additional twelve or more consecutive months after
8 the initial date of the retirement; provided that the ninety-
9 day period shall not include any part of a summer or other
10 scheduled break or vacation period. "

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